

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:09-00271

CLARK A. DIEHL

O R D E R

On the 15th day of January, 2010, the United States of America appeared by Hunter P. Smith, Jr. and Thomas C. Ryan, Assistant United States Attorneys, and Gary Restaino with the United States Department of Justice, and the defendant appeared in person and by Benjamin L. Bailey, his counsel.

Counsel for the United States informed the court that a two-count information had been filed on December 4, 2009, charging the defendant with one violation of Title 26, United States Code, Section 7201, and one violation of Title 18, United States Code, Section 1341.

After the court advised defendant of his right under Rule 7 of the Federal Rules of Criminal Procedure to be charged by indictment, the defendant waived in writing in the presence of the court and his counsel prosecution by indictment and

consented that the proceeding be by information, which written waiver is ORDERED filed.

Counsel for the United States then presented to the court and read into the record a plea agreement between the United States and the defendant, which plea agreement is ORDERED filed.

The defendant informed the court that he wished to enter a plea of GUILTY to the information. After the court explained the charges contained in the information, the defendant entered the plea of GUILTY as charged.

Before accepting the plea, the court personally addressed the defendant pursuant to Rule 11 of the Federal Rules of Criminal Procedure, and informed the defendant of the nature of the charges contained in the information, the elements of each offense, and the rights to which the defendant is entitled.

The court being satisfied from the admissions of the defendant that a factual basis exists for the plea, and further that the plea was made voluntarily and that the defendant understands the nature of the charges, the elements of each offense, and the mandatory minimum penalty, if any, and the maximum

possible penalty provided by law for the offense to which the plea is offered, the plea is hereby accepted and the written plea of guilty executed by the defendant in the presence of the court is ORDERED filed.

Accordingly, IT IS ADJUDGED that the defendant, upon his plea of GUILTY, is hereby found guilty and convicted of one violation of Title 26, United States Code, Section 7201, and one violation of Title 18, United States Code, Section 1341, as charged in the information in this case.

The court advised the defendant that it accepted his plea agreement, having found that the agreement protects the rights of the defendant and is in the best interests of justice.

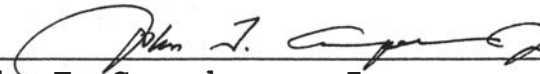
The court ORDERED that the Probation Department of this court shall conduct a presentence investigation of the defendant and disclose the presentence report to the defendant and to counsel by April 7, 2010; counsel shall communicate to the Probation Department by April 21, 2010, any objections to the presentence report; the presentence report, together with an addendum setting forth any unresolved objections, shall be submitted to the court by May 5, 2010; and the defendant shall

appear before the court for sentencing at 1:30 p.m. on May 19, 2010. Unless otherwise ordered, the probation officer is directed not to disclose the probation officer's sentencing recommendation except to the court.

After hearing the parties with respect to release pending sentence, the court ORDERED, pursuant to Title 18, United States Code, Section 3142(b) and (c), that the defendant may be released upon execution of an unsecured bond in the amount of TEN THOUSAND DOLLARS (\$10,000.00), with the special conditions set forth in the order setting conditions of release entered January 15, 2010.

The Clerk is directed to forward copies of this order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: January 27, 2010



John T. Copenhaver, Jr.
United States District Judge